

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN CUSTOM MACHINES,
INC.,

Plaintiff,

v.

AIT WORLDWIDE LOGISTICS, INC.
and JP GRAHAM TRANSPORT, INC.,

Defendants.

Case No. 2:20-cv-11644
Hon. Laurie J. Michelson
Mag. R. Steven Whalen

**DEFENDANT JP GRAHAM TRANSPORT, INC.’S UNOPPOSED
MOTION FOR LEAVE TO BE HEARD AS TO DEFENDANT AIT
WORLDWIDE LOGISTICS, INC’S PENDING VENUE MOTION**

Defendant JP GRAHAM TRANSPORT, INC. (“JP Graham”) by and through its undersigned counsel, respectfully requests, states and prays as follows:

1. On June 23, 2020, Plaintiff Michigan Custom Machines, Inc. (“MCM”), filed a Complaint in the above-captioned action. *See* Docket No. 1.
2. The Complaint was served on JP Graham on July 14, 2020.
3. JP Graham’s Motion for Extension of Time to File Answer was granted by this Court on August 17, 2020, and JP Graham was directed to file an Answer by August 25, 2020. *See* Docket No. 7.

4. JP Graham timely filed its Answer on August 25, 2020. *See* Docket No. 12. In its Answer, JP Graham asserted improper venue as its First Affirmative Defense.

5. On August 25, 2020, Defendant AIT Worldwide Logistics, Inc. (“AIT”) filed a motion to transfer venue pursuant to 28 U.S.C. § 1404(a) or, alternatively, to dismiss the case based on improper venue pursuant to Fed. R. Civ. P. 12(b) (“the venue motion”). *See* Docket 13. JP Graham consented to the venue motion.

6. The venue motion relies, in part, on facts alleged in a supporting affidavit which are beyond those alleged in MCM’s Complaint. *See* Docket 13-1.

7. MCM filed an opposition to the venue motion on September 15, 2020 (“MCM’s Opposition”). *See* Docket 14.

8. MCM’s Opposition relies, in part, on facts alleged in a supporting affidavit some of which are outside of the facts alleged in its Complaint, and outside of the facts alleged by AIT in the venue motion.

9. AIT filed its reply to MCM’s Opposition on September 29, 2020. *See* Docket 16.

10. The Court’s ruling on the venue motion, specifically the issues pertaining to the applicability of AIT’s tariff to the freight transaction, may have a significant impact on JP Graham’s defense. JP Graham has not yet been heard on

the issues raised by the venue motion and on the new facts asserted in the briefing on the venue motion.

11. The Court's ruling on the venue motion will impact not only where JP Graham must defend this matter, but also has the potential to impact its defense-in-chief should the Court rule on certain key facts placed at issue by the venue motion.

12. Having raised improper venue as the First Affirmative Defense in its Answer, JP Graham should be heard on any ruling which would impact such a defense, particularly when additional facts have been asserted by all other parties.

13. The foregoing request is made in good faith, not for the purpose of delay and with the purpose of allowing JP Graham to be heard on issues that will significantly impacts is defense in this matter.

14. By this motion, JP Graham seeks leave to file a brief or memorandum addressing the venue motion by or before October 15, 2020. JP Graham would request permission for its filing to be no longer than 15 pages.

15. Prior to the making of this motion, counsel for JP Graham sought the consent of all other counsel involved. Counsel for MCM and counsel for AIT each respectively consented to the relief requested by this motion, so long as each is permitted to file a response, not to exceed ten (10) pages, to JP Graham's brief or

memorandum within fourteen (14) days of JP Graham's filing of its brief or memorandum. JP Graham consents to each party's request to file a response brief.

WHEREFORE, Defendant, JP Graham Transport, Inc., respectfully requests that this Honorable Court grant its request for leave to be heard as to AIT's venue motion by permitting its filing of a brief or memorandum, not to exceed 15 pages in length, by or before October 15, 2020.

Date: October 2, 2020

Respectfully submitted,

/s/ Kristen M.J. Johnson

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*Local Rule 83.20 Counsel for Defendant
JP Graham*

CERTIFICATE OF SERVICE

This is to certify that on October 2, 2020, the forgoing document was filed with the Clerk of Court using the CM/ECF System. Notice will be sent to all counsel of record and/or parties by operation of the Court's electronic case filing system. Parties may access this through the Court's electronic case filing system.

/s/ Kristen M.J. Johnson